

# **FISCAL NOTE**

## **HB 4180 - SB 4126**

February 8, 2008

**SUMMARY OF BILL:** Makes multiple changes to state law concerning the regulation of public utilities by the Tennessee Regulatory Authority (TRA), as it specifically relates to the regulation of incumbent local exchange telecommunications companies. Prohibits TRA from regulating certain telecommunications products and services of incumbent local exchange telephone companies under certain specified circumstances. Changes multiple state laws regarding price regulation, price discrimination, promotional incentives, and the bundling of certain products and services which are provided by certain telecommunications companies.

### **ESTIMATED FISCAL IMPACT:**

#### **Decrease State Revenue – Not Significant**

**Other Fiscal Impact – If this legislation results in rate changes for services provided by incumbent local exchange telecommunications companies, there could be significant impacts upon state and local government revenue as a result of state and local sales tax being levied against higher or lower service rates in the future. Specific estimates for these impacts, and whether such impacts would result in increases of revenue or decreases of revenue, cannot be determined because such impacts are dependent upon multiple unknown factors. Such unknown factors are the number of companies who will change their rates in the future, the extent and direction of any rate changes made, and the elasticity of demand for multiple services at multiple price levels. While precise estimates cannot be determined, the net impact to state revenue is reasonably estimated to exceed \$1,000,000 per year, and the net impact to local government revenue is reasonably estimated to exceed \$320,000 per year.**

#### **Assumptions:**

- According to TRA, the authority is charged with regulating investor-owned public utilities in the state, including telecommunications providers.

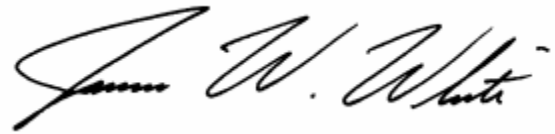
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- Regulation includes, but is not limited to, issuance of certificates to operate, price regulation, resolution of consumer complaints, and quality of service regulation.
- Section 14 of this bill states that beginning on July 1, 2008, the authority shall no longer have regulatory jurisdiction over basic local exchange telephone services provided by incumbent local exchange telephone companies that are subject to price regulation.
- According to TRA, there are three incumbent local exchange telephone companies operating under price regulation at this time: Embarq, Citizens of Tennessee, and Bell South (currently AT&T).
- Pursuant to Tenn. Code Ann. § 65-4-301, every public utility doing business in the state that is subject to regulation by the TRA to pay an annual fee for the inspection, control, and supervision of the business.
- Pursuant to Tenn. Code Ann. § 65-4-303(a), such annual inspection fee is based on gross receipts from intrastate operations.
- Pursuant to Tenn. Code Ann. § 65-4-303(b), such gross receipts from intrastate operations means total revenues, before any deductions, which are recognized by the authority as utility revenue for the purpose of setting intrastate rates. TRA also considers this revenue “regulated revenue” for the purpose of assessing and collecting inspection fees. Such inspection fee is determined by applying the formula as established in Tenn. Code Ann. § 65-4-303(c) to the amount of regulated revenue for each company.
- According to TRA and based on their most recent filing fee data, the sum total of regulated revenue for the three local exchange telephone companies operating under price regulation was \$1,173,568,908. The resulting inspection fees paid to the authority was \$2,350,108.
- According to TRA, without Sections 4 and 13 of this bill, the authority would no longer be able to assess or collect (after July 1, 2008) such inspection fees because they would no longer have the regulatory jurisdiction over the “basic local exchange telephone services.” TRA indicates that the language of Sections 4 and 13 provides the authority the authorization to continue collecting such inspection fees.
- The language provided by Sections 4 and 13 of this bill is assumed to be sufficient for enabling TRA to continue collecting the inspection fees authorized pursuant to Tenn. Code Ann. § 65-4-301. As a result, any decrease of state revenue is estimated to be not significant.
- This bill proposes the definition for “basic local exchange telephone services” to mean telecommunications services which are comprised of dial-tone, touch-tone and usage provided to the premises for the provision of two-way switched voice or data transmission over facilities of residential customers within a local calling area, Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on the date the incumbent local exchange telephone company applies for price regulation.

- According to TRA, this proposed reduction of regulatory responsibility for specific telecommunications services will not reduce the need for existing resources because of remaining regulatory responsibilities of other telecommunications companies and their products and services, and due to ongoing regulatory responsibilities with waste water treatment and gas utilities.

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/rnc